UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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ART UNIT	PAPER NUMBER
2634	

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO 90C (Rev 10/03)

	Application No.	Applicant(s)
	09/909,229	CZEKAJ ET AL.
Office Action Summary	Examiner	Art Unit
	Sudhanshu C. Pathak	2634

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *July 19th, 2001*.

2a)☐ This action is **FINAL.**   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-35* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16 and 19-35* is/are rejected.

7)☒ Claim(s) *17 and 18* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *July 19th, 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _2_.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-to-35 are pending in the application.

Claim Objections

2. Claim 9 is objected to because of the following informalities:

Claim 9 (dependent on Claim 1) recites subject matter that is already

disclosed in Claim 1 step "d" therefore, Claim 9 is a duplicate claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and
> process of making and using it, in such full, clear, concise, and exact terms as to enable any
> person skilled in the art to which it pertains, or with which it is most nearly connected, to make
> and use the same and shall set forth the best mode contemplated by the inventor of carrying
> out his invention.

4. Claims 7, 10 & 25 are rejected under 35 U.S.C. 112, first paragraph, as

failing to comply with the enablement requirement. The claim(s) contains

subject matter, which was not described in the specification in such a way

as to enable one skilled in the art to which it pertains, or with which it is

most nearly connected, to make and/or use the invention.

Regarding to Claim 7 (dependent on Claim 1), the Claim recites

transmitting the sample rate converted source information which was received

Claim 1 steps "c" & "d", it is not clear as to where this is disclosed and

furthermore, why it would be necessary to retransmit data just received.

Regarding to Claim 10 & 25, the claim recites that a sample rate converter

is not required if the source (first) rate is in synchronism with the network

(second) rate, it is not clear what the term "synchronism" means. A sample

rate converter would be required if the first rate is an integer multiple of the

second rate and vice versa. The only situation a sample rate converter is not

needed is if the first rate is the same as the second rate, therefore the term

"synchronism" implies the first rate to be equal to the second rate. This is not

clearly and distinctly describe in the specification, as to exact relationship

between the first and second rate so as to not (absent) sample rate

conversion.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially
   created doctrine grounded in public policy (a policy reflected in the statute)
   so as to prevent the unjustified or improper timewise extension of the
   "right to exclude" granted by a patent and to prevent possible harassment
   by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29
   USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645
   (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA
   1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re
   Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

   A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may
be used to overcome an actual or provisional rejection based on a
nonstatutory double patenting ground provided the conflicting application or
patent is shown to be commonly owned with this application. See 37
CFR 1.130(b).

   Effective January 1, 1994, a registered attorney or agent of record may
sign a terminal disclaimer. A terminal disclaimer signed by the assignee must
fully comply with 37 CFR 3.73(b).

6. Claims 1, 2, 6, 9-10, 25-30, 32-33 & 35 are provisionally rejected under

   the judicially created doctrine of obviousness-type double patenting as

   being unpatentable over claim 2 (the claim is a dependent claim which

   incorporates all the limitations of the independent claim 1) of copending

   Application No. 10/223,263 (PG-Pub US 2003/0063684). Although the

conflicting claims are not identical, they are not patentably distinct from

each other.

This is a provisional obviousness-type double patenting rejection because

the conflicting claims have not in fact been patented.

Regarding to Claims 1-2, 9, 25-28, 30, 32-33 & 35, the claims recites a

method of transmitting digital information over a synchronous network

comprising the processing the source information is done at a first rate, this

limitation is recited in step "a" of Claim 1 of the copending application; the

claim further recites clocking the digital information into the synchronous

network at a second rate, the second rate different than the first rate, this

limitation is recited in step "b" of Claim 1 of the copending application; the

claim further recites receiving the digital information over the synchronous

network, this limitation is recited in step "e" of Claim 2 of the copending

application; the claim further recites sample rate converting the source

information as a function of the first rate and the second rate, this limitation is

recited in step "f" of Claim 2 of the copending application. Therefore, it would

have been obvious to one of ordinary skill in the art at the time of the

invention that all the limitations recited in the claim are disclosed in the

copending application claim 2, furthermore although the conflicting claims are

not identical, they are not patentably distinct from each other, the copending

claims provide further limitations as those are presented in the application's

claim. Furthermore, the copending application claim 2 does not specifically

disclose the first rate is a different frequency than the second rate, it would

have been obvious to one of ordinary skill in the art at the time of the

invention that the first and second rate, different from each other are the

different frequencies of the sampling the source data and the clocking

frequency of the network frames. Furthermore, even though claim 2 of the

copending application does not specify the sample rate conversion, this would

have to be done in the processing of the digital information as a function of

the first data rate and a second data rate so as to recover the transmitted

data.

Regarding to Claims 6, 27 & 29 (the claims are dependent claims, which

incorporates all the limitations of the independent respective claims), the

claim recites processing the source information that has been sample rate

converted to produce a synthesized source information, this limitation is

recited in step "f" of Claim 2 of the copending application.

Regarding to Claim 10 (the claim is a dependent claim, which incorporates

all the limitations of the independent claim), the claim recites processing

additional source information in synchronism with the second rate to produce

additional information, clocking the data into a synchronous network at the

second data rate, and processing digital information absent sample rate, all

the limitations of the claims are described in Claim 2 of the copending

application as described in the above (claim 1). However, the claim 2 of the

copending application does not disclose not sample rate converting if the

source rate is in synchronism with the clocking rate. Therefore, it would have

been obvious to one of ordinary skill in the art at the time of the invention that

if the source rate is the same as the network rate a sample rate converter is

not required.

7. Claims 3, 11-12 & 15-16 are provisionally rejected under the judicially

    created doctrine of obviousness-type double patenting as being

    unpatentable over claim 7 (the claim is a dependent claim which

    incorporates all the limitations of the independent claim 1) of copending

    Application No. 10/223,263 (PG-Pub US 2003/0063684). Although the

    conflicting claims are not identical, they are not patentably distinct from

    each other.

    Regarding to Claim 3, 11-12 & 15-16 (the claims are dependent claims,

    which incorporates all the limitations of the independent respective claims),

    the claim recites processing the source information at a first rate further

    comprises counting the first rate to generate a source counter value (CV(m)),

    and transmitting the source counter value (CV(m)) as part of the digital

    information, this limitation is recited in Claim 7 of the copending application.

8. Claims 5, 13 & 31 are provisionally rejected under the judicially created

    doctrine of obviousness-type double patenting as being unpatentable over

    claim 5 (the claim is a dependent claim which incorporates all the

    limitations of the independent claim 1) of copending Application No.

    10/223,263 (PG-Pub US 2003/0063684). Although the conflicting claims

    are not identical, they are not patentably distinct from each other.

    Regarding to Claims 5, 13 & 31 (the claims are dependent claims, which

    incorporates all the limitations of the independent respective claims), the

claim recites clock the digital information into the synchronous network at a

second rate further comprising inputting at least two source information words

into a network frame for transmittal over the synchronous network, this

limitation is recited in Claim 5 of the copending application which describes

processing a plurality of blocks of data, clocking the blocks into network

frames. Furthermore there is no criticality in inputting at least two source

information blocks into the network frame, this is a matter of design choice

based on the length of the frame and the length of the blocks.

9. Claims 4, 7, 14 & 34 are provisionally rejected under the judicially created

doctrine of obviousness-type double patenting as being unpatentable over

claim 2 (the claim is a dependent claim which incorporates all the

limitations of the independent claim 1) of copending Application No.

10/223,263 (PG-Pub US 2003/0063684) in view of Chao et al.

(5,204,882). <u>Although the conflicting claims are not identical, they are not</u>

<u>patentably distinct from each other.</u>

This is a <u>provisional</u> obviousness-type double patenting rejection.

Regarding to Claims 4, 7, 14 & 34 (the claims are dependent claims,

which incorporates all the limitations of the independent respective claims),

all the limitations recited in the independent claim 1 are double patented as

described above. However, the copending Application No. 10/223,263 (PG-

Pub US 2003/0063684) does not disclose receiving the digital information

over the synchronous network further comprising buffering the digital

information.

Chao discloses a method for recovering the service clock recovery for a

variable bit rate services (Abstract, lines 1-5) comprising a receive buffer

(Fig. 1, elements 58, 60 & Fig.'s 3, 4, 7, element 82 & Column 2, lines 2-8,

25-30 & Column 3, lines 23-32 & Column 10, lines 15-25). Chao also

discloses each source / destination node to be a destination / source node

i.e. the source/since nodes operate in a duplex mode (Fig. 1, elements 52,

22). Therefore, it would have been obvious to one of ordinary skill in the art

at the time of the invention that Chao teaches implementing a receive buffer

so as to buffer the received information for further processing and recover

the network clock, and this can be implemented in the receiver as described

in the copending application 10/223,263 (PG-Pub US 2003/0063684) so as

to prevent data loss at the receiver while determining the network clock, thus

satisfying the limitations of the claim.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described
as set forth in section 102 of this title, if the differences between the subject matter sought to
be patented and the prior art are such that the subject matter as a whole would have been
obvious at the time the invention was made to a person having ordinary skill in the art to which
said subject matter pertains. Patentability shall not be negatived by the manner in which the
invention was made.

11. Claims 1-7, 9-15, 19-21 & 23-35 are rejected under 35 U.S.C. 103(a) as

being unpatentable over the Applicant Admitted Prior Art (AAPA) in view

of Van der Putten et al. (6,327,273).

Regarding to Claims 1-7, 9-15 & 23-35, the Applicant Admitted Prior Art

(AAPA) discloses a method of transmitting digital information over a

synchronous network (Specification, Page 1, lines 9-20). The AAPA also

discloses the communication between a source (input node where data is

originated to be transmitted over the network) coupled to the network and a

sink (output node where the transmitted data is received) which is also

coupled to the network, furthermore the AAPA also discloses node in the

network to be a source/sink depending on the flow of the data (Specification,

Page 1, lines 9-14 & Specification, Page 2, lines 10-20 & Specification, Page

7, lines 10-24 & Specification, Page 8, lines 1-11). The AAPA also discloses

in synchronous network comprising the sample rate of the digital information

processed by the source/sink is different from the network master clock rate

(Specification, Page 2, lines 10-14). The AAPA also discloses that in

asynchronous network the data is transmitted in the form of network frames

separated by equal time intervals wherein the time intervals and the network

frames are fixed at the network master clock rate and the operation of the

source and the sink are synchronized with the frequency of the network

master clock (Specification, Page 1, lines 15-20 & Specification, Page 2, lines

10-11). The AAPA also discloses implementing a sample rate converter for

synchronizing the source/sink rate to the frequency of the network master

clock from the source/sink sample rate (Specification, Page 2, lines 14-17).

The AAPA also discloses the sink portion of the node to comprise a buffer to

store the network counter value (NCV) and the digital information supplied

over the synchronous network (Specification, Page 18, lines 8-10). The

AAPA also discloses the sample rate converter capable of extracting the

digital information and the network counter value (Specification, Page 18,

lines 15-18). The AAPA also discloses the synchronous data transfer

standards for synchronous network include media oriented system transport

(most) and domestic databus (D2B) wherein the source/sink nodes establish

connection to the network using modems, ISDN connections, DSL

connections etc. (Specification, Page 7, lines 14-24 & Specification, Page 8,

lines 1-17). However, the AAPA does not disclose sample rate converting the

source information as a function of the first rate (source rate) and the second

rate (network clock rate).

Van der Putten discloses a method for to transparently transporting an

incoming clock of a known frequency over a network (clock transport method)

wherein the transmitter and receiver are synchronized (Abstract, lines 1-5 &

Column 1, lines 13-26). Van der Putten also discloses transmitting the data

and the information of the incoming clock (Fig. 1, elements "CLK2, CLK2')

from the source to the sink in frames at a frequency of the transmit clock

(Column 1, lines 30-35 & Column 2, lines 12-17, 44-59 & Column 3, lines 1-

11 & Column 4, lines 50-59 & Column 5, lines 23-26, 59-65 & Column 6, lines

29-45 & Fig. 1, elements "C1", "R", CLK1, C1', R' CLK1'). Van der Putten

also discloses embedding the information of the incoming clock rate along

with the data to be transported into the data frame of the network which is

then de-embed at the receiver to recover the data and the clock information

(Fig. 1, element "P", "FRAME" & Column 5, lines 44-67 & Column 6, lines 1-53 & Claim 1). Van der Putten further discloses event counter mechanism so as to store (measure) the information of the incoming clock (Column 5, lines 55-67 & Column 6, lines 1-3). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention that Van der Putten teaches implementing the a clock transport method wherein the information of the transported clock is embedded in the frame of the network and this can be implemented in the network as described in the AAPA so as to provide both the source clock rate and the network clock rate at the sink to further implement the sample rate conversion at the sink thus reducing the complexity of the source/sink in the network over which the clock signal is transported, thus satisfying the limitations of the claims. Furthermore, there is no criticality in inputting at least two source information words into the network frame for transmitting over the synchronous network, this is a matter of design choice depending on the choice of the source information rate and the network clock rate.

12. Claims 8, 16 & 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Applicant Admitted Prior Art (AAPA) in view of Van der Putten et al. (6,327,273) in further view of Binder et al. (6,009,109).

Regarding to Claims 8, 16 & 22, the Applicant Admitted Prior Art (AAPA) in view of Van der Putten discloses a method for communication in a synchronous network between a sink/source ports wherein the source sample rate is transported to the sink from the source so as to implement the ample

rate converter at the sink as described above. However, the AAPA in view of Van der Putten does not specify ignoring a portion of the source information as a function of the first and second rate.

Binder discloses a process of transmission of digital data wherein the application data timing is independent of the network clock rate (Fig.'s 1-2 & Abstract, lines 11-17 & Column 1, lines 7-14, 40-64). Binder further discloses the network clock being greater than the data sample rate, thus oversampling the data signal for transmission (Abstract, lines 1-6 & Fig.'s 1-2 & Column 1, lines 25-35 & Column 2, lines 29-56). Binder further discloses ignoring the redundant (oversampled) digital data as a function of the first and second rate (Fig.'s 1-2, elements "τ", "EXOR", "BF", "D-FF2" & Column 2, lines 65-67 & Column 3, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the at the time of the invention that Binder teaches oversampling the digital data in the transmitter and at the receiver ignoring the redundant data to regenerate the transmitted data, and this can be implemented in the network as described in the AAPA in view of Van der Putten as a data rate converter when the network clock is greater than the source sample data to retrieve the transmitted data, thus satisfying the limitations of the claims.

Allowable Subject Matter

13. Claims 17, 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure, it is recommended to the applicant to amend all the claims so as to be patentable over the cited prior art of record. A detailed list of pertinent references is included with this Office Action (See Attached "Notice of References Cited" (PTO-892)).

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sudhanshu C. Pathak whose telephone number is (571)-272-3038. The examiner can normally be reached on M-F: 9am-6pm.

- If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571)-272-3056

- The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

- Information regarding the status of an application may be obtained

    from the Patent Application Information Retrieval (PAIR) system.

    Status information for published applications may be obtained from

    either Private PAIR or Public PAIR. Status information for

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    For more information about the PAIR system, see http://pair-

    direct.uspto.gov. Should you have questions on access to the

    Private PAIR system, contact the Electronic Business Center (EBC)

    at 866-217-9197 (toll-free).

Sudhanshu C. Pathak

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